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LOZEAU DRURY LLP

T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
doug@lozeaudrury.com

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 20, 2016

William Murray, President
Teknor Apex Company
505 Central Avenue
Pawtucket, RI 02861

Bahman Dariush, Plant Manager
Teknor Apex Maclin Div
420 6th Ave.
City of Industry, CA 91746

VIA FIRST CLASS MAIL

C T Corporation System
Agent for Service of Process for Teknor Apex Company
(Entity Number C236812)
818 West Seventh St., Ste. 930
Los Angeles, CA 90017

Re: Notice of Violations and Intent to File Suit under the Federal Water Pollution Control Act

Dear Mr. Murray and Ms. Dariush:

I am writing on behalf of Los Angeles Waterkeeper ("LAW") in regard to violations of the Clean Water Act (the "Act") that LAW believes are occurring at Teknor Apex Company's industrial facility located at 505 Central Avenue in City of Industry, California ("Facility"). This letter is being sent to Teknor Apex Company, Teknor Apex Maclin Div, William Murray, and Bahman Dariush as the responsible owners or operators of the Facility (all recipients are hereinafter collectively referred to as "Teknor Apex").

This letter addresses Teknor Apex's unlawful discharge of pollutants from the Facility

into channels that flow into San Jose Creek and the San Gabriel River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 97-03-DWQ ("1997 Permit") as renewed by Order No. 2015-0057-DWQ ("2015 Permit"). The 1997 Permit was in effect between 1997 and June 30, 2015, and the 2015 Permit went into effect on July 1, 2015. As explained below, the 2015 Permit maintains or makes more stringent the same requirements as the 1997 Permit. As appropriate, LAW refers to the 1997 and 2015 Permits in this letter collectively as the "General Permit." The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, LAW hereby places Teknor Apex on formal notice that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, LAW intends to file suit in federal court against Teknor Apex under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

LAW is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 120 Broadway, Suite 105, Santa Monica, California 90401. Founded in 1993, LAW has approximately 3,000 members who live and/or recreate in and around the Los Angeles area. LAW is dedicated to the preservation, protection, and defense of the inland and coastal surface and groundwaters of Los Angeles County from all sources of pollution and degradation. To further this mission, LAW actively seeks federal and state implementation of the Clean Water Act. Where necessary, LAW directly initiates enforcement actions on behalf of itself and its members.

Members of LAW reside in Los Angeles County, and near San Jose Creek, the San Gabriel River, and Pacific Ocean (hereinafter "Receiving Waters"). As explained in detail below, the Facility continuously discharges pollutants into the Receiving Waters, in violation of the Clean Water Act and the General Permit. LAW members use the Receiving Waters to swim, boat, kayak, bird watch, view wildlife, hike, bike, walk, and run. Additionally, LAW members use the waters to engage in scientific study through pollution and habitat monitoring and restoration activities. The unlawful discharge of pollutants from the Facility into the Receiving Waters impairs LAW members' use and enjoyment of these waters. Thus, the interests of LAW's members have been, are being, and will continue to be adversely affected by the Facility's failure to comply with the Clean Water Act and the General Permit.

The Waste Discharger Identification Number ("WDID") for the Facility listed on documents submitted to the California Regional Water Quality Control Board, Los Angeles Region ("Regional Board") is 4 19I001300. In its Notice of Intent to comply with the General Permit ("NOI"), Teknor Apex certifies that the Facility is classified under SIC codes 3052, 3087, and 3081. The name of the Facility listed on the NOI is "Teknor Apex Maclin Div." The Facility is almost fully paved and covers an area of 228,000 square feet. The Facility collects through a system of storm drains and surface flow and discharges storm water through at least two outfalls. On information and belief, LAW alleges the outfalls contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur. Storm water discharged from the Facility indirectly flows into Reach 1 of San Jose Creek, which flows into the San Gabriel River, and ultimately flows to the Pacific Ocean via the San Gabriel River Estuary and Alamitos Bay.

The Regional Board has identified beneficial uses of the San Gabriel River, including its tributary, San Jose Creek, and the San Gabriel River Estuary and Alamitos Bay and established water quality standards for these waters in the "Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties", generally referred to as the Basin Plan. *See* http://www. waterboards.ca.gov/losangeles/water_issues/ programs/basin_plan/. The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, navigation, commercial and sport fishing, warm freshwater habitat, wildlife habitat, estuarine habitat, migration of aquatic organisms, water contact recreation, and non-contact water recreation. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." *Id.* at 2-2. Contact recreation use includes fishing and wading. *Id.* Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the San Gabriel River and San Jose Creek for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life." *Id.* at 3-38. The Basin Plan includes a narrative oil and grease standard which states that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses." *Id.* at 3-29. The Basin Plan provides that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-37. The Basic Plan provides that "[t]he pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges." *Id.* at 3-35. The Basin Plan provides that "[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated

beneficial use." *Id.* at 3-24. The Basin Plan provides that "[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-26. The Basin Plan provides that "[w]aters shall be free of coloration that causes nuisance or adversely affects beneficial uses." *Id.* at 3-25. The Basin Plan provides that "[w]aters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses." *Id.* at 3-38. The Basin Plan provides that "[w]aters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial uses." *Id.* at 3-37.

The EPA has adopted freshwater numeric water quality standards for zinc of 0.120 mg/L (Criteria Maximum Concentration – "CMC"), for copper of 0.013 mg/L (CMC), and for lead of 0.065 mg/L. 65 Fed. Reg. 31712 (May 18, 2000) (California Toxics Rule or "CTR").[1]

The EPA 303(d) List of Water Quality Limited Segments lists the Reach 1 of San Jose Creek as impaired for ammonia, total dissolved solids, toxicity, and pH, among other pollutants. *See* http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml. Reach 3 of the San Gabriel River, where San Jose Creek flows into the San Gabriel River, is listed as impaired for indicator bacteria. Reach 2 of the San Gabriel River is impaired for coliform bacteria, cyanide, and lead. Reach 1 of the San Gabriel River is impaired for trash, oil, nutrients, pathogens, copper, and lead. Reach 1 of the Los Angeles River is impaired for coliform bacteria and pH. The San Gabriel River Estuary is impaired for copper and nickel, among other pollutants. San Pedro Bay is impaired for sediment toxicity, among other pollutants.

The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT").[2] The following benchmarks have been established for pollutants discharged by Teknor Apex: pH – 6.0 - 9.0 standard units ("s.u."); total suspended solids ("TSS") – 100 mg/L; oil and grease ("O&G") – 15 mg/L; zinc – 0.26 mg/L; copper – 0.0332 mg/L; and lead – 0.262 mg/L.

These benchmarks are reflected in the 2015 Permit in the form of Numeric Action Levels ("NALs"). The 2015 Permit incorporates annual NALs, which reflect the 2008 EPA Multi-Sector General Permit benchmark values, and instantaneous maximum NALs, which are derived from a Water Board dataset. The following annual NALs have been established under the 2015 Permit: TSS – 100 mg/L; O&G – 15 mg/L; zinc – 0.26 mg/L; copper – 0.0332 mg/L; and lead – 0.262 mg/L. The 2015 Permit also establishes the following instantaneous maximum NALs: pH – 6.0-9.0 s.u.; TSS – 400 mg/L; and oil & grease ("O&G") – 25 mg/L.

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[1] The values for zinc and copper are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

[2] The Benchmark Values can be found at http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf.

II. Alleged Violations of the General Permit.

A. Discharges in Violation of the Permit

Teknor Apex has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the 1997 Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. The 2015 Permit includes the same effluent limitation. *See* 2015 Permit, Effluent Limitation V(A). BAT and BCT include both nonstructural and structural measures. 1997 Permit, Section A(8); 2015 Permit, Section X(H). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the 1997 Permit and Discharge Prohibition III(B) of the 2015 Permit prohibit the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the 1997 Permit and Receiving Water Limitation VI(B) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that adversely impact human health or the environment. Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) and Discharge Prohibition III(D) of the 2015 Permit also prohibit storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2) of the 1997 Permit and Receiving Water Limitation VI(A) of the 2015 Permit. As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Teknor Apex has discharged and continues to discharge storm water with unacceptable levels of pH, TSS, zinc, copper, and lead in violation of the General Permit. Teknor Apex's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the Facility have contained measurements of pollutants in excess of applicable numerical water quality standards established in the Basin Plan. They have thus violated Discharge Prohibitions A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and III(D) and Receiving Water Limitations VI(A), VI(B), and VI(C) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit, and Effluent Limitation V(A) of the 2015 Permit.

Sampling Date	Parameter	Observed Concentration	Basin Plan Water Quality Objective / CTR	Outfall (as identified by the Facility)
2/18/2016	pH	3.59	6.5 – 8.5	SP-2
9/15/2015	pH	4.11	6.5 – 8.5	SP-1
9/15/2015	pH	2.62	6.5 – 8.5	SP-2
12/12/2014	pH	6.17	6.5 – 8.5	SP-1
12/2/2014	pH	6.24	6.5 – 8.5	SP-2
11/21/2013	pH	6.45	6.5 – 8.5	East and South side of plant
10/9/2013	pH	6.18	6.5 – 8.5	East and South side of plant
10/9/2013	pH	6.25	6.5 – 8.5	North side of facility
11/8/2012	pH	6.42	6.5 – 8.5	East and South side of plant
2/18/2016	Zinc	2.6 mg/L	0.120 mg/L (CMC)	SP-1
2/18/2016	Zinc	0.39 mg/L	0.120 mg/L (CMC)	SP-2
1/5/2016	Zinc	1.3 mg/L	0.120 mg/L (CMC)	SP-1
1/5/2016	Zinc	2.5 mg/L	0.120 mg/L (CMC)	SP-2
9/15/2015	Zinc	0.84 mg/L	0.120 mg/L (CMC)	SP-1
9/15/2015	Zinc	0.7 mg/L	0.120 mg/L (CMC)	SP-2
7/30/2015	Zinc	2.4 mg/L	0.120 mg/L (CMC)	SP-1
7/30/2015	Zinc	7.1 mg/L	0.120 mg/L (CMC)	SP-2
5/14/2015	Zinc	1.1 mg/L	0.120 mg/L (CMC)	SP-1
5/14/2015	Zinc	1.9 mg/L	0.120 mg/L (CMC)	SP-2

2/23/2015	Zinc	0.67 mg/L	0.120 mg/L (CMC)	SP-1
2/23/2015	Zinc	1.6 mg/L	0.120 mg/L (CMC)	SP-2
12/12/2014	Zinc	0.33 mg/L	0.120 mg/L (CMC)	SP-1
12/12/2014	Zinc	1.2 mg/L	0.120 mg/L (CMC)	SP-2
12/2/2014	Zinc	0.64 mg/L	0.120 mg/L (CMC)	SP-1
12/2/2014	Zinc	2 mg/L	0.120 mg/L (CMC)	SP-2
11/21/2013	Zinc	4.5 mg/L	0.120 mg/L (CMC)	East and South side of plant
11/21/2013	Zinc	1.8 mg/L	0.120 mg/L (CMC)	North side of facility
10/9/2013	Zinc	20 mg/L	0.120 mg/L (CMC)	East and South side of plant
10/9/2013	Zinc	12 mg/L	0.120 mg/L (CMC)	North side of facility
2/8/2013	Zinc	1.9 mg/L	0.120 mg/L (CMC)	East and South side of plant
2/8/2013	Zinc	0.95 mg/L	0.120 mg/L (CMC)	North side of facility
11/8/2012	Zinc	6.3 mg/L	0.120 mg/L (CMC)	East and South side of plant
11/8/2012	Zinc	3.9 mg/L	0.120 mg/L (CMC)	North side of facility
1/23/2012	Zinc	0.47 mg/L	0.120 mg/L (CMC)	East and South side of plant
1/23/2012	Zinc	0.25 mg/L	0.120 mg/L (CMC)	North side of facility
1/5/2016	Copper	0.055 mg/L	0.013 mg/L (CMC)	SP-1
9/15/2015	Copper	0.015 mg/L	0.013 mg/L (CMC)	SP-1
9/15/2015	Copper	0.018 mg/L	0.013 mg/L (CMC)	SP-2
7/30/2015	Copper	0.089 mg/L	0.013 mg/L (CMC)	SP-1
7/30/2015	Copper	0.046 mg/L	0.013 mg/L (CMC)	SP-2

5/14/2015	Copper	0.046 mg/L	0.013 mg/L (CMC)	SP-1
5/14/2015	Copper	0.021 mg/L	0.013 mg/L (CMC)	SP-2
2/23/2015	Copper	0.022 mg/L	0.013 mg/L (CMC)	SP-1
2/23/2015	Copper	0.029 mg/L	0.013 mg/L (CMC)	SP-2
12/12/2014	Copper	0.028 mg/L	0.013 mg/L (CMC)	SP-2
12/2/2014	Copper	0.024 mg/L	0.013 mg/L (CMC)	SP-1
12/2/2014	Copper	0.018 mg/L	0.013 mg/L (CMC)	SP-2
11/21/2013	Copper	0.051 mg/L	0.013 mg/L (CMC)	East and South side of plant
11/21/2013	Copper	0.034 mg/L	0.013 mg/L (CMC)	North side of facility
10/9/2013	Copper	0.22 mg/L	0.013 mg/L (CMC)	East and South side of plant
10/9/2013	Copper	0.21 mg/L	0.013 mg/L (CMC)	North side of facility
2/8/2013	Copper	0.024 mg/L	0.013 mg/L (CMC)	East and South side of plant
2/8/2013	Copper	0.054 mg/L	0.013 mg/L (CMC)	North side of facility
11/8/2012	Copper	0.065 mg/L	0.013 mg/L (CMC)	East and South side of plant
11/8/2012	Copper	0.071 mg/L	0.013 mg/L (CMC)	North side of facility
1/23/2012	Copper	0.014 mg/L	0.013 mg/L (CMC)	North side of facility
10/5/2011	Copper	0.026 mg/L	0.013 mg/L (CMC)	East and South side of plant
10/5/2011	Copper	0.031 mg/L	0.013 mg/L (CMC)	North side of facility
7/30/2015	Lead	0.071 mg/L	0.065 mg/L (CMC)	SP-1
10/9/2013	Lead	0.09 mg/L	0.065 mg/L (CMC)	East and South side of plant
10/9/2013	Lead	0.12 mg/L	0.065 mg/L (CMC)	North side of facility

The information in the above table reflects data gathered from Teknor Apex's self-monitoring during the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 wet seasons, as well as the 2015-2016 reporting year. LAW alleges that since at least October 5, 2011, and continuing through today, Teknor Apex has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following:

- pH – 6.5 – 8.5 (Basin Plan at 3-35)
- Zinc – 0.12 mg/L (CMC)
- Copper – 0.013 mg/L (CMC)
- Lead – 0.065 mg/L (CMC)

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit; and are evidence of ongoing violations of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit.

Sampling Date	**Parameter**	**Observed Concentration**	**EPA Benchmark Value /Annual NAL**	**Outfall (as identified by the Facility)**
2/18/2016	pH	3.59	6.0 – 9.0[3]	SP-2
9/15/2015	pH	4.11	6.0 – 9.0	SP-1
9/15/2015	pH	2.62	6.0 – 9.0	SP-2
7/20/2015	Total Suspended Solids	110 mg/L	100 mg/L	SP-1
10/9/2013	Total Suspended Solids	350 mg/L	100 mg/L	East and South side of plant
10/9/2013	Total Suspended Solids	280 mg/L	100 mg/L	North Side of facility
2/18/2016	Zinc	2.6 mg/L	0.26 mg/L	SP-1
2/18/2016	Zinc	0.39 mg/L	0.26 mg/L	SP-2
1/5/2016	Zinc	1.3 mg/L	0.26 mg/L	SP-1
1/5/2016	Zinc	2.5 mg/L	0.26 mg/L	SP-2
9/15/2015	Zinc	0.84 mg/L	0.26 mg/L	SP-1
9/15/2015	Zinc	0.7 mg/L	0.26 mg/L	SP-2
7/30/2015	Zinc	2.4 mg/L	0.26 mg/L	SP-1

[3] The values for pH listed are for the 2015 Permit's instantaneous maximum NAL range. The Facility reported three violations of the instantaneous maximum NAL for pH during the 2015-2016 reporting year.

2015-2016 reporting year	Zinc	2.23 mg/L	0.26 mg/L	All discharge points[4]
7/30/2015	Zinc	7.1 mg/L	0.26 mg/L	SP-2
5/14/2015	Zinc	1.1 mg/L	0.26 mg/L	SP-1
5/14/2015	Zinc	1.9 mg/L	0.26 mg/L	SP-2
2/23/2015	Zinc	0.67 mg/L	0.26 mg/L	SP-1
2/23/2015	Zinc	1.6 mg/L	0.26 mg/L	SP-2
12/12/2014	Zinc	0.33 mg/L	0.26 mg/L	SP-1
12/12/2014	Zinc	1.2 mg/L	0.26 mg/L	SP-2
12/2/2014	Zinc	0.64 mg/L	0.26 mg/L	SP-1
12/2/2014	Zinc	2 mg/L	0.26 mg/L	SP-2
11/21/2013	Zinc	4.5 mg/L	0.26 mg/L	East and South side of plant
11/21/2013	Zinc	1.8 mg/L	0.26 mg/L	North side of facility
10/9/2013	Zinc	20 mg/L	0.26 mg/L	East and South side of plant
10/9/2013	Zinc	12 mg/L	0.26 mg/L	North side of facility
2/8/2013	Zinc	1.9 mg/L	0.26 mg/L	East and South side of plant
2/8/2013	Zinc	0.95 mg/L	0.26 mg/L	North side of facility
11/8/2012	Zinc	6.3 mg/L	0.26 mg/L	East and South side of plant
11/8/2012	Zinc	3.9 mg/L	0.26 mg/L	North side of facility
1/23/2012	Zinc	0.47 mg/L	0.26 mg/L	East and South side of plant
1/5/2016	Copper	0.055 mg/L	0.0332 mg/L	SP-1
7/30/2015	Copper	0.089 mg/L	0.0332 mg/L	SP-1
7/30/2015	Copper	0.046 mg/L	0.0332 mg/L	SP-2
5/14/2015	Copper	0.046 mg/L	0.0332 mg/L	SP-1
11/21/2013	Copper	0.051 mg/L	0.0332 mg/L	East and South side of plant
11/21/2013	Copper	0.034 mg/L	0.0332 mg/L	North side of facility
10/9/2013	Copper	0.22 mg/L	0.0332 mg/L	East and South side of plant
10/9/2013	Copper	0.21 mg/L	0.0332 mg/L	North side of facility
2/8/2013	Copper	0.054 mg/L	0.0332 mg/L	North side of facility
11/8/2012	Copper	0.065 mg/L	0.0332 mg/L	East and South side of plant
11/8/2012	Copper	0.071 mg/L	0.0332 mg/L	North side of facility

[4] This value represents the average of all zinc measurements taken at the Facility during the 2015-2016 reporting year and exceeds 0.26 mg/L, the annual NAL for zinc.

The information in the above table reflects data gathered from Teknor Apex's self-monitoring during the 2011-2012, 2012-2013, 2013-2014, and 2014-2015 wet seasons and the 2015-2016 reporting year. Further, LAW notes that the Facility exceeded the annual NALs for zinc and copper during the 2015-2016 reporting year as well as exceeded the instantaneous maximum NAL for pH. LAW alleges that since at least December 20, 2011, Teknor Apex has discharged storm water contaminated with pollutants at levels that exceed the applicable EPA Benchmarks and NALs for pH, TSS, zinc, copper, and lead.

LAW's investigation, including its review of Teknor Apex's Storm Water Pollution Prevention Plan ("SWPPP"), Teknor Apex's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards, and EPA benchmark values and NALs, indicates that Teknor Apex has not implemented BAT and BCT at the Facility for its discharges of pH, TSS, zinc, copper, lead, and potentially other pollutants in violation of Effluent Limitation B(3) of the 1997 Permit and Effluent Limitation V(A) of the 2015 Permit. Teknor Apex was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Teknor Apex is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; Discharge Prohibitions III(C) and III(D) and Receiving Water Limitations VI(A), VI(B), and VI(C) of the 2015 Permit. LAW alleges that such violations also have occurred and will occur on other rain dates, including on information and belief every significant rain event that has occurred since December 20, 2011, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which LAW alleges that Teknor Apex has discharged storm water containing impermissible and unauthorized levels of pH, TSS, zinc, copper, and lead in violation of Section 301(a) of the Act as well as Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the 1997 Permit; and Effluent Limitation V(A), Discharge Prohibitions III(B) and III(C) and Receiving Water Limitations VI(A) and VI(B) of the 2015 Permit.[5]

Further, LAW puts Teknor Apex on notice that 2015 Permit Effluent Limitation V(A) is a separate, independent requirement with which Teknor Apex must comply, and that carrying out

[5] The rain dates on the attached table are all the days when 0.1" or more rain was observed by averaging data from three weather stations in Pomona, Glendale, and Long Beach, which are located in a triangle surrounding the Facility. The data was accessed at http://ipm.ucanr.edu/calludt.cgi/WXDESCRIPTION?STN=POMONA.A, http://ipm.ucanr.edu/calludt.cgi/WXDESCRIPTION?STN=GLENDALE.A, and http://ipm.ucanr.edu/calludt.cgi/WXDESCRIPTION?STN=LONG_BEACH.A. (Last accessed on December 20, 2016).

the iterative process triggered by exceedances of the NALs listed at Table 2 of the 2015 Permit does not amount to compliance with the Permit's Effluent Limitations, including Teknor Apex's obligation to have installed BAT and BCT at the Facility. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State, the NALs do not represent technology based criteria relevant to determining whether an industrial facility has implemented BMPs that achieve BAT/BCT.[6] Finally, even if Teknor Apex submits an Exceedance Response Action Plan(s) pursuant to Section XII of the 2015 Permit, the violations of Effluent Limitation V(A) described in this Notice Letter are ongoing.

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Permit and the Act. Each discharge of storm water constitutes an unauthorized discharge of pH, TSS, zinc, copper, lead, and polluted storm water associated with industrial activity in violation of Section 301(a) of the CWA. Each day that the Facility operates without implementing BAT/BCT is a violation of the General Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Teknor Apex is subject to penalties for violations of the General Permit and the Act since December 20, 2011.

B. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program for the Facility.

The 1997 Permit requires facility operators to develop and implement an adequate Monitoring and Reporting Program before industrial activities begin at a facility. See 1997 Permit, § B(1). The 2015 Permit includes similar monitoring and reporting requirements. See 2015 Permit, § XI. The primary objective of the Monitoring and Reporting Program is to both observe and to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the General Permit's discharge prohibitions, effluent limitations, and receiving water limitations. An adequate Monitoring and Reporting Program therefore ensures that best management practices ("BMPs") are effectively reducing and/or eliminating pollutants at a facility, and is evaluated and revised whenever appropriate to ensure compliance with the General Permit.

Sections B(3)-(16) of the 1997 Permit set forth the monitoring and reporting requirements. As part of the Monitoring Program, all facility operators must conduct visual observations of storm water discharges and authorized non-storm water discharges, and collect and analyze samples of storm water discharges. As part of the Reporting Program, all facility operators must timely submit an Annual Report for each reporting year. The monitoring and

[6] The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the 2015] Permit are not, in and of themselves, violations of [the 2015] Permit." 2015 Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* 2015 Permit, Section XII

reporting requirements of the 2015 Permit are substantially similar to those in the 1997 Permit, and in several instances more stringent.

Section B of the 1997 Permit describes the visual monitoring requirements for storm water discharges. Facilities are required to make monthly visual observations of storm water discharges from all drainage areas (Section B(4)). Section B(7) requires that the visual observations must represent the "quality and quantity of the facility's storm water discharges from the storm event." The requirement to make monthly visual observations of storm water discharges from each drainage area is continued in Section XI(A) of the 2015 Permit.

LAW alleges that Teknor Apex failed to conduct monthly visual observations of storm water discharges during numerous months during the past five years. On information and belief, based on precipitation data compared to the dates in which the Facility did conduct monthly visual observation of storm water discharges, LAW alleges that Teknor Apex failed to conduct monthly visual observations of storm water discharges at its storm water discharge locations during the following months:

- 2011 – November, December
- 2012 – April, October, December
- 2013 – January, March, May, December
- 2014 – January, March, April, May, November, December
- 2015 – January, March, April

In addition, on April 13, 2012, the Facility reported visual observations of storm water discharges, but, on information and belief, LAW alleges that that date was not a qualifying event because significant rains occurred two days earlier.

The above results in at least 38 violations of the General Permit. These violations of the General Permit are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Teknor Apex is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since December 20, 2011.

C. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan.

Under the General Permit, the State Board has designated the SWPPP as the cornerstone of compliance with NPDES requirements for storm water discharges from industrial facilities, and ensuring that operators meet effluent and receiving water limitations. Section A(1) and Provision E(2) of the 1997 Permit require dischargers to develop and implement a SWPPP prior to beginning industrial activities that meet all of the requirements of the 1997 Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges and authorized non-stormwater discharges from the facility, and to implement BMPs to reduce or prevent

pollutants associated with industrial activities in storm water discharges and authorized non-stormwater discharges. See 1997 Permit § A(2); 2015 Permit § X(C). These BMPs must achieve compliance with the General Permit's effluent limitations and receiving water limitations. To ensure compliance with the General Permit, the SWPPP must be evaluated and revised as necessary. 1997 Permit §§ A(9), (10); 2015 Permit § X(B). Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of the General Permit. 2015 Permit Factsheet § I(1).

Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a site map; a list of significant materials handled and stored at the site; a description of potential pollutant sources; an assessment of potential pollutant sources; and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-stormwater discharges, including structural BMPs where non-structural BMPs are not effective. Sections X(D) – X(I) of the 2015 Permit set forth essentially the same SWPPP requirements as the 1997 Permit, except that all dischargers are now required to develop and implement a set of minimum BMPs, as well as any advanced BMPs as necessary to achieve BAT/BCT, which serve as the basis for compliance with the 2015 Permit's technology-based effluent limitations. See 2015 Permit § X(H). The 2015 Permit further requires a more comprehensive assessment of potential pollutant sources than the 1997 Permit; more specific BMP descriptions; and an additional BMP summary table identifying each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented. See 2015 Permit §§ X(G)(2), (4), (5).

The 2015 Permit requires dischargers to implement and maintain, to the extent feasible, all of the following minimum BMPs in order to reduce or prevent pollutants in industrial storm water discharges: good housekeeping, preventive maintenance, spill and leak prevention and response, material handling and waste management, erosion and sediment controls, an employee training program, and quality assurance and record keeping. See 2015 Permit, § X(H)(1). Failure to implement all of these minimum BMPs is a violation of the 2015 Permit. See 2015 Permit Fact Sheet § I(2)(o). The 2015 Permit further requires dischargers to implement and maintain, to the extent feasible, any one or more of the following advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial storm water discharges: exposure minimization BMPs, storm water containment and discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. See 2015 Permit, § X(H)(2). Failure to implement advanced BMPs as necessary to achieve compliance with either technology or water quality standards is a violation of the 2015 Permit. *Id.* The 2015 Permit also requires that the SWPPP include BMP Descriptions and a BMP Summary Table. See 2015 Permit § X(H)(4), (5). A Facility's BMPs must, at all times, be robust enough to meet the General Permit's and 33 U.S.C. ¶ 1342(p)(3)(A)'s requirement that all discharges associated with industrial activities be subjected to BAT and BCT. 2015 Permit §§ V(A), I(A)(1), I(D)(31), I(D)(32); 1997 Permit, Effluent

Limitation B(3), Receiving Water Limitation C(3).

Despite these clear BMP requirements, Teknor Apex has been conducting and continues to conduct industrial operations at the Facility with an inadequately developed, implemented, and/or revised SWPPP. The SWPPP fails to comply with the requirements of Section X(H) of the 2015 Permit. The SWPPP fails to implement both required minimum and advanced BMPs.

Most importantly, the Facility's storm water samples and discharge observations have consistently exceeded EPA benchmarks and NALs, demonstrating the failure of its BMPs to reduce or prevent pollutants associated with industrial activities in the Facility's discharges. Despite these exceedances, Teknor Apex has failed to sufficiently update and revise the Facility's SWPPP. The Facility's SWPPP has therefore never achieved the General Permit's objective to identify and implement proper BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges.

LAW puts Teknor Apex on notice that it violates the General Permit and the CWA every day that the Facility operates with an inadequately developed, implemented, and/or revised SWPPP. These violations are ongoing, and LAW will include additional violations as information and data become available. Teknor Apex is subject to civil penalties for all violations of the CWA occurring since December 20, 2011.

III. Persons Responsible for the Violations.

LAW puts Teknor Apex Company, William Murray, and Bahman Dariush on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, LAW puts Teknor Apex Company, William Murray, and Bahman Dariush on notice that it intends to include those subsequently identified persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of Los Angeles Waterkeeper is as follows:

Bruce Reznik, Executive Director
LA Waterkeeper
120 Broadway, Suite 105
Santa Monica, CA 90401
Tel. (310) 394-6162
bruce@lawaterkeeper.org

V. Counsel.

LAW has retained legal counsel to represent it in this matter. Please direct all communications to:

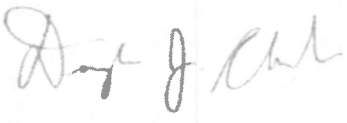
Douglas J. Chermak
Michael R. Lozeau
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
Tel. (510) 836-4200
doug@lozeaudrury.com
michael@lozeaudrury.com

VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Teknor Apex to a penalty of up to $37,500 per day per violation for all violations occurring since October 28, 2011, up to and including November 2, 2015, and up to $51,570 for violations occurring after November 2, 2015. In addition to civil penalties, LAW will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

LAW believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. LAW intends to file a citizen suit under Section 505(a) of the Act against Teknor Apex and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, LAW would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, LAW suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. LAW does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Douglas J. Chermak
Lozeau Drury LLP
Attorneys for Los Angeles Waterkeeper

SERVICE LIST – via certified mail

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Loretta Lynch, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Alexis Strauss, Acting Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Samuel Unger, Executive Officer II
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

ATTACHMENT A

Rain Dates, Teknor Apex, City of Industry, CA

1/21/2012	11/29/2013	7/19/2015
1/23/2012	12/19/2013	9/15/2015
2/15/2012	2/6/2014	9/16/2015
2/27/2012	2/27/2014	10/4/2015
3/17/2012	2/28/2014	10/5/2015
3/18/2012	3/1/2014	11/3/2015
3/25/2012	3/5/2014	12/13/2015
4/11/2012	4/1/2014	12/19/2015
4/13/2012	4/2/2014	12/22/2015
4/25/2012	4/25/2014	12/25/2015
4/26/2012	11/1/2014	12/29/2015
10/11/2012	11/26/2014	1/5/2016
11/8/2012	11/30/2014	1/6/2016
11/17/2012	12/2/2014	1/7/2016
11/29/2012	12/3/2014	1/31/2016
11/30/2012	12/12/2014	2/17/2016
12/2/2012	12/16/2014	2/18/2016
12/3/2012	12/17/2014	2/19/2016
12/13/2012	12/30/2014	2/20/2016
12/18/2012	1/9/2015	2/23/2016
12/24/2012	1/10/2015	3/6/2016
12/26/2012	1/11/2015	3/7/2016
12/29/2012	1/26/2015	3/11/2016
1/24/2013	2/22/2015	4/9/2016
1/25/2013	2/23/2015	10/17/2016
2/8/2013	3/2/2015	10/24/2016
2/19/2013	4/7/2015	11/20/2016
3/8/2013	4/25/2015	11/21/2016
5/6/2013	5/8/2015	11/26/2016
5/7/2013	5/14/2015	11/27/2016
10/9/2013	5/15/2015	12/15/2016
11/21/2013	7/18/2015	12/16/2016